

### REMARKS

Favorable reconsideration of this application is requested in view of the following remarks. Claims 2, 5 and 7 are amended. Claims 1-8 remain actively pending in the case. Reconsideration of the claims is respectfully requested.

In paragraph 5 on page 5 of the Office Action, the Office Action stated that the amendment filed January 01, 2005 was objected to under 35 USC 132(a) because it introduces new matter into the disclosure. Applicant traverses the objection, but in the interest of furthering prosecution has amended the Specification. Therefore, in view of the above remarks, Applicant respectfully requests that Examiner withdraw the objection.

In paragraph 7 on page 4 of the Office Action, claims 2, 5 and 7 are rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully traverses the rejection.

With respect to claims 2 and 7, MPEP §608.01(l) states:

In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it.

Where subject matter not shown in the drawing or described in the description is claimed in the application as filed, and such original claim itself constitutes a clear disclosure of this subject matter, then the claim should be treated on its merits, and requirement made to amend the drawing and description to show this subject matter. The claim should not be attacked either by objection or rejection because this subject matter is lacking in the drawing and description. It is the drawing and description that are defective, not the claim.

However, to further prosecution, Applicant has amended claims 2 and 7. As set forth in MPEP 2173.05(h), alternative limitations using expression such as "or" are acceptable. The amendment to claims 2 and 7 have been made merely for providing appropriate formatting in accordance with the rules. It is respectfully submitted that this change does not affect the scope of the claims. Support for claim 2 can be found on at least page 8. Support for claim 7 can be found at least in Table 1 and pages 9-10. In addition, Applicant submits that a correction to a typographical error was made to claim 2.

With respect to claim 5, Applicant has amended claim 5 to better clarify the invention and submits that the rejection is now moot. Support for the amendment can be found on at least page 8, lines 3-23 and page 10.

Therefore, in view of the above remarks, Applicant submits that the amendments to the Specification are proper and claim 2, 5 and 7 are in condition for allowance.

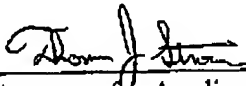
In paragraph 9 on page 8 of the Office Action, claims 1-8 were rejected under 35 USC § 103(a) as being unpatentable over the combination of Kaplan (US Patent 6,211,484) and further in view of Kurihara et al. Applicant respectfully traverses the rejection. As admitted by the Office Action, Kaplan fails to teach or suggest at least reading said micro-discrete indicia using near-field optics as recited in claim 1.

Kurihara fails to remedy the deficiencies of Kaplan as Kurihara fails to teach or suggest at least reading said micro-discrete indicia using near-field optics. Rather, Kurihara discloses fabricating functional probes for near-field optical microscopy. *See Title; see also* paragraph two. In the fabrication process, a polyvinyl chloride film is fixed on the apex of the probe and functions as a submicron-to-micron chemical sensor. *See* paragraph three. Further, Kurihara merely discloses that nonlinear probes are used to investigate nonlinearity in near-field regions. *See* paragraph four.

Therefore, in view of the above remarks, Applicant's claim 1 is patentable over the cited references. Because claims 2-8 depend from claim 1 and include the features recited in the independent claim, Applicant respectfully submits that claims 2-8 are also patentably distinct over the cited references. Nevertheless, Applicant is not conceding the correctness of the Office Action's rejection with respect to such dependent claims and reserve the right to make additional arguments if necessary.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Applicant(s)  
Registration No. 53,950

Thomas J. Strouse/  
Rochester, NY 14650  
Telephone: 585-588-2728  
Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.